

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEFFREY G GUTHRIE
Claimant

APPEAL NO. 20A-UI-10404-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF TRANSPORTATION
Employer

OC: 06/14/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

Jeffrey Guthrie filed a timely appeal from the August 21, 2020, reference 01, decision that denied benefits effective June 14, 2020, based on the deputy's conclusion that the claimant was on a leave of absence that he requested and the employer approved, was voluntarily unemployed, and was unavailable for work. After due notice was issued, a hearing was held on October 14, 2020. Mr. Guthrie participated and presented additional testimony through Trisha Guthrie. Melissa Hill of Corporate Cost Control represented the employer and presented testimony through Dana McKenna and Nancy Woody. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A and the claimant's application for PUA benefits.

ISSUES:

Whether the claimant is able to and available for work?
Whether the claimant is on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jeffrey Guthrie established an original claim for benefits that was effective June 14, 2020. Mr. Guthrie has made weekly claims for the period beginning June 14, 2020 through October 14, 2020. Iowa Workforce Development has not disbursed any benefits in connection with the claim.

Mr. Guthrie is currently employed with the Iowa Department of Transportation as a full-time Highway Tech Associate assigned to the Newton shop. Nancy Woody, Highway Maintenance Supervisor, is Mr. Guthrie's supervisor. Mr. Guthrie is a cancer patient. Mr. Guthrie's doctor has deemed Mr. Guthrie to be at significantly increased risk in connection with the COVID-19 pandemic. In March 2020, Mr. Guthrie's doctor took Mr. Guthrie off work. Mr. Guthrie applied for and was approved for a leave of absence. As of June 16, 2020, Mr. Guthrie exhausted all paid leave benefits and his continued leave of absence became unpaid. Mr. Guthrie has continued periodic contact with the employer's third party leave administrator and has provided

updated letters from his doctor in support of his continued need to be off work. The Reed Group has continued to approve extensions of the unpaid leave, based on the updated medical notes and most recently approved an extension of the leave effective September 22, 2020.

The employer had continued to have the same work available for Mr. Guthrie since he went off work. The nature of the road maintenance position precludes performing any aspect of the duties from home or by telecommuting. On September 21, 2020, Ms. Woody discussed with Mr. Guthrie accommodations the IDOT would be able to provide to provide a safe work environment. They offered Mr. Guthrie altered work hours and having him work alone, rather than as a group. Mr. Guthrie's particular health issue would make it necessary for him to use public areas to deal with his illness, which would potentially expose him to COVID-19. Mr. Guthrie and his doctor have determined it continues to be unsafe for Mr. Guthrie to return to the employment. Since Mr. Guthrie went off work, he and his spouse have been quarantining at their home and Mr. Guthrie has not sought other employment.

Mr. Guthrie has applied for Pandemic Unemployment Assistance (PUA) benefits, but has not yet submitted medical documentation in support of his application for PUA benefits and has not yet received a decision regarding his eligibility for PUA benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of

services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Mr. Guthrie has not been able to work or available for work within the meaning of the law since he established the original claim for benefits that was effective June 14, 2020. Since June 14, 2020, Mr. Guthrie has been on a medical leave of absence that he requested and the employer approved. The leave of absence is based on Mr. Guthrie being at high risk in connection with COVID-19. Mr. Guthrie has continued under the care of his doctor, who has not released him to return to work, even with accommodations. Mr. Guthrie is not able to work and not available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, Mr. Guthrie is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim and up to the present.

Even though Mr. Guthrie is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

DECISION:

The August 21, 2020, reference 01, decision is affirmed. The claimant was unable and unavailable for work since establishing his claim for benefits. Accordingly, the claimant is not eligible for regular, state-funded unemployment insurance benefits. Benefits are denied effective June 14, 2020. The able and available disqualification continued at the time of the appeal hearing.



James E. Timberland
Administrative Law Judge

October 16, 2020
Decision Dated and Mailed

jet/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.